

“IMPACT OF ISRAELI SETTLEMENTS ON THE PEACEFUL SETTLEMENT OF THE PALESTINIAN CASE”

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ABSTRACT

This study had concluded that the settlements established by Israel on the Palestinian lands, occupied by Israel in 1967, aim at constant dominance on such lands through imposing such difficult situation and prevents the separation of the settled lands from Israel in any political process aiming at solving the Palestinian dilemma. The settlement policy is a common feature, in principle and content, throughout all the political powers ruling Israel. In light international law rules and provisions, the study had conclude that establishing settlements in the occupied Palestinian lands is illegal and violates the right of the Palestinian people which acknowledged by the international legitimacy represented in UN and its various resolutions in this regard.

The study had also concluded that the political support and diplomatic cover granted by USA to Israel to prevent being convicted in the international forums had reached infinite limit against the rights of the Palestinians. Thus, Israel was encouraged to resume Palestinian lands' seizure and uprooting their original inhabitants.

KEYWORDS:

- *Palestinian case*
- *Israeli settlements*
- *Geneva agreement*
- *Settlements and international law*
- *US policy*
- *Arab-Israeli struggle*

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1.1. INTRODUCTION

The issue of the Israeli settlements on the Palestinian occupied lands is one of the most important and final solutions of the Palestinian case under the peaceful settlement of the Arab-Israeli struggle. Thus, the study had been distributed on three main aspects; the first section tackled Israeli settlement policy in the Palestinian occupied lands, while the second section had dealt with the Israeli settlements in light of the international law and legitimacy. The third section, however, focused on pursuing and analyzing the US attitude towards Israeli settlements. In this context, the study aims at identifying Israel policies and motives behind establishing these settlements and how far they can affect reaching fair solution for the Palestinian case. Then, the study shall discuss the issue from the international law point of view, as well as the US attitude towards the settlements issue based on

the fact that USA is the world superpower and the leading sponsor of Arab-Israeli peaceful settlement.

1.2 Study Problem

The nature of this study raises some questions which need to be answered:

- What is the impact of Israeli settlements on solving the Palestinian case?
- How far are the Israeli settlements consistent or contradicted with International law rules and provisions and international legitimacy?
- What is the real US attitude towards the settlements issue? How far does this affect the solution under the peaceful settlement of the Arab-Israeli struggle?

1.3 Study Hypothesis

The study is based on the following main hypothesis:

- Continuous existence of the Israeli settlements on the Palestinian lands occupied in 1967 forms an obstacle against Palestinian case solution.

2.0 ISRAELI SETTLEMENT POLICIES ON THE PALESTINIAN OCCUPIED LANDS

Since the Israeli occupation of the west bank and Gaza strip in 1967, Israeli settlement policy was launched based on security considerations in accordance with YigalAllon project, who called for establishing buffer zone between the west bank and Gaza strip, on one part, and Egypt and Jordan, on the other part. Thus, Israel established settlements in Jordan valley and the mountainsides before Jordan, Dead Sea desert, and Rafah to separate Gaza Strip from Sinai, as well as Gosh Atsion and areas near Jerusalem. Besides, Israel had established settlements at the west of the West bank to possess water resources, and Jerusalem expanded area to attempt to include to Israel (Al Rashidi, 1993, 86).

Israeli settlement policies, during this period, had aimed at unifying Jerusalem (East and west) to be immortal capital of Israel and drawing safe defensible borders, as well as preventing the establishment of third (Palestinian) state between Israel and Jordan in any possible settlement of the Palestinian issue (Allon, 1976, 44-48). When LIKOD had ruled Israel for the first time in November 1977, it had imposed the ideological aspect represented in Jewish religious fundamentalism which prospects settlement from the religious and historical Jewish right allegations in West Bank and Gaza Strip (Shamaa, 1981, 139-143). Thus, it is to be said that settlement was a common feature among all main political powers in Israel. Though there seem to be ostensible difference between one trend and another in this regard, all agree on principle and substance as they aim at accomplishing one goal which is to continue dominating the Palestinian occupied land and include them to Israel.

Israeli settlement has special features which made it a unique symbol. The Israeli settlement project had been established on uprooting principle which uproots the original Arab inhabitants even through committing genocides as happened in Der Yassen, Kafir Qaim and Dawima. This is in addition to collateral and organized expel of Arab inhabitants outside borders (Mahdi, 2001, 353-356)

Under Israeli settlement strategy, it had established the settlements according to two perspectives; the first is security and the other is political. "Security" settlements are those established in Gaza Strip and West Bank along the borders with Israel. As for the "political" settlement's, they are those located among Palestinian-inhabited areas, which have barraging basis as Israel may withdraw from them in light of the possible political settlement of the issue

(Saleh, 1996, 104).

In brief, in light of the exchange and integration of roles among the political Israeli ruling powers, Israeli settlement in the occupied lands in 1967, it became official supported and supervised by the governments. In addition, it is being implemented according to the objectives related to the future of these land in the future agreements to be signed with the Arab parties. (Netanyahu, 1996, 280-306)

In this context, Israeli settlement thinking is directed to two main trends: the first is based on the objective to enhance and devote occupation by building settlements, especially in strategic areas, and giving security considerations the top political priority. This policy is represented by Labor party and its pros from other Liberian political parties and powers. As for the second trend, it is based on the ideological and religious considerations which depend on the Jewish right in historical “Israel land”. It believes in the necessity to restructure the geographic and demographic maps of west bank and Gaza Strip, so that they cannot be separated from Israel in any agreement with the Arabs. This thinking is adopted by Likud party and its allies from right powers and extremist fundamentalist groups.

3.1 Israeli Settlements and International Law

International law common and agreed provisions had confirmed that military occupation does not transfer sovereign to the occupier, which has no authority over the occupied territory except temporarily managements and security maintenance authority. The occupier has no right to own the public or private lands. Hague regulation 1907 is one of the most important international law sources which deal with occupation issues; the provisions of which had become stable custom rules in this regard. Pursuant to both articles No. 55 and 56 of this regulation provisions, the occupier of any territory has the right to manage and benefit from the buildings, real estates, woods, and agricultural lands of the enemy state in the occupied country. The occupier must maintain and manage these properties according to beneficiary rules. Besides, the two referred articles prohibit the occupier from retaining or destroying the municipal institutions, historical monuments, art and scientific works. (Abu Al Saoud, 130)

3.2 Geneva Agreement and Security Council Resolutions

Geneva agreement is the fourth in 1949, concerning the protection of civilians during wars, and it is highly important as it is the main concern of the analyses dealing with the legitimacy of Israel settlements because it contains major articles; the most important of which is the second article which stipulates that the agreement shall be implemented in all partial or whole occupation of any territory that belongs to any of the agreement’s parties. Besides, the fourth article thereof refers that the persons protected by the agreement are those who may find themselves, at any minute and in any way, in case of dispute or occupation, under the authority of dispute national party or non-national occupying state. However, the sixth clause of Article 49 states that occupation authority cannot transfer or deport any of its civilian inhabitants to the lands it had occupied (The Geneva Conventions, 1949)

Since the beginning of the Israeli occupation of the Arab lands in 1967, UN had confirmed that these lands are occupied and subject to Geneva e fourth agreement. The UN insisted that Israel, being occupation authority, must respect the same. Security Council and UN General Assembly had issued various resolutions confirming the same. The most important of these resolutions are No. 242/1967 which emphasized on the necessity to establish fair peace in the Middle East, including the withdrawal of Israeli troops from the land it occupied in war. Besides, all resolutions issued by the International legitimacy considered the procedures taken by Israel to change the physical nature and demographic structure

and condition of these lands, including East Jerusalem, to be void and illegal, and that Israeli settlement practices are deemed blatant violation of Geneva fourth agreement, forming a serious obstacle in the fair and comprehensive peace process in Middle East. However, they demanded Israel to terminate such procedures and, particularly, stop transferring its civilians to the occupied Arab lands (Al Qudsi, 1992, 433-436). UN General Assembly's rejection to Israeli settlement policy extended to consider and describe Israeli practices in occupied lands totally as "war crimes and humanity degradation" (Al Rashidi, 1993, 95)

Despite all attitudes and resolutions of International Legitimacy which reject and condemn Israeli settlement, Israel remained neglecting these resolutions and rejected implementation thereof. It alleged the right to establish settlements in the Palestinian occupied lands based on some excuses and arguments; some of which are based on religious and historical beliefs while others depend on security and strategic considerations. (Abdul Aal, 2000, 91-132)

3.3 Israeli Lawful Arguments and Their Implementation

In this context, Israel alleged some arguments and legal bases to have an excuse for settlement in the Palestinian occupied lands such as alleging that there is no contradiction between establishing settlements and relevant international law rules. The most important argument was that Geneva agreements 1949, concerning the organization of military occupation, are not binding Israel as the agreement assumes previous legal sovereign on the occupied territory as a condition for implementation. In the Israeli perspective, Jordan and Egypt's sovereign on the west bank and Gaza was not legal. However, this argument is collapsed against the fact that the sovereign on the occupied lands "historical Palestine in 1948" had been transferred to the Palestinian nation as well as other Arab nationals which separated from Ottoman state upon WWI and signing Sevres and Lausannetreaties in 1919 and 1947 respectively (Amer, 1993 ,35-37). Thus, the Palestinian sovereignty remained, yet it was hindered by Israeli occupation authorities.

Moreover, Israel alleged that its settlement policy is based on individual initiatives which the Israeli government cannot prevent since the freedom to move and reside is one of the basic rights stipulated in International Human Rights pacts. Nevertheless, such allegation is proven null also as the military occupation authorities remain solely responsible for any illegal actions committed by their nationals inside the occupied territory, which may cause genuine changes in the social, economic and demographic structure of this territory. (Abu Al Saoud, 2000, 135-140)

However, the fact is that settlement process in the Arab occupied lands is a well-organized and planned policy, as the Israeli governments remained the sole party responsible for issuing the final approval on all settlement activities, development, supervision and growth, as confessed by Israeli leaders themselves. (Haber, 1978, 405). Thus, settlement process became main component of all governmental programs as of the occupation commencement up to date as they set plan to dominate the Palestinian occupied lands through settlement.

4. US ATTITUDE DEVELOPMENT TOWARDS SETTLEMENTS ISSUE"

Based on the fact that USA is the first sponsor of Arab-Israeli struggle settlement, it is necessary to recognize the real US attitude towards settlements issue. In this regard, the historical experience had shown that, throughout Arab-Israeli struggle years, before Ronald Regan presidency period, all US presidents declared that Israeli settlement in the occupied land is illegal pursuant to relevant international treaties and pacts. Besides, they considered settlement an obstacle in the peace path. However, President Regan (1982-1988) is thought by some experts to be affected by the legal arguments submitted by Eugene Rostow, International law professor in Bill University and the manifest representative of conservative

Israeli-pro party. The US policy during Regan’s presidency considered that the Israeli settlements cannot be described as illegal, yet they are obstacles in the peace path only. Thus, it is to be said that the US policy during Regan’s presidency was a shift in the US traditional attitude concerning settlements. (Rostow, 1979, 145-149)

At the beginning of George Bush presidency (1989-1992) USA had strongly opposed the Israeli settlement in the Palestinian occupied lands and asked Israel to give up such unrealistic vision of “Great Israel” and to stop settlements. However, in practice, George Bush Department had completely different and contradicted attitudes. On 16th February 1990, USA refrained from voting on the resolution issued by the US human rights committee which confirmed the implementation of Geneva fourth agreement on the Palestinian occupied lands and calling Israeli government to cease Jewish settlement there. (Quandt, 1994, 355)

In light of the furious Israeli escalation of settling ten thousands of Jewish Soviet immigrants to the Palestinian occupied lands, US department declared rejection of this settling. However, Washington had successfully pressured International Security Council in May 1990 to draw back a draft to condemn Jewish settlement in the occupied lands, and describe it as illegal (Rubeburg, 1996, 282-283). These contradictions raise the question about the real US policy towards Israeli settlements issue. When US statements are compared with US actions and deeds, the verbal attitudes are aimed to keep some honest for the Arab side, especially that USA is the mediator in the peaceful settlement of Arab-Israeli struggle. As for the action side, USA had been adopting such attitude in International forums that provide diplomatic cover and political support for Israel, and prevent being condemned even if Washington had to face the international community alone.

As for President Clinton Department (1993-2000), it maintained the historical approach of US policy towards Arab-Israeli struggle issue, by providing political support to Israel and prevented being condemned in all international forums. US government had, on 28.02.1995, hindered Security Council draft condemning Israeli settlements in West Bank. On 17.05.1995, US used “VETO” against Security Council draft demanding Israel to stop confiscating Arab lands in Jerusalem (Awad, 2000, 77-78). When Netanyahu government, at the beginning of March 1997, commenced the establishment of “Harhoma” settlement in Jabel AbiGhonim in East Jerusalem, and resumed extensive settlement throughout the West Bank rapidly, US had only verbally opposed the Israeli settlement in the occupied lands; yet it used “VETO” twice in Security Council on 7th and 21st March 1997 to prevent issuing two resolutions demanding Israel to stop working immediately in the referred “Harhoma” settlement, though both draft were in soft tone and had not included any direct condemnation against Israel. Moreover, Washington had opposed the resolution of UN General Assembly on 13th July 1997 which confirmed Israel violation of International provisions and Geneva agreement and that East Jerusalem is part of the occupied lands and is subject to the International law and provisions thereof, in addition to the demand to stop settlement processes in Jabel Abu Ghanim (Shash, 1999, 160).

In Camp David Summit (12-25.07.2000), which as aimed to discuss issued of final settlement of the Palestinian case, including settlement issue, the US attitude was determined in this concern by supporting the Israeli vision represented in gathering big settlements in three huge settlement blocks (MaleaAdomim, GhafatZaef, and GhoshAtsion) and conjoin them to Israel. This is in addition to the possibility of exchanging settlements lands with others on the Israeli side of 1967 borders; the process which was called “Borders’ movement”, which actually means Israel refusal to go back to 4th June 1967 borders and final insistence to conjoin 80% of settlements to Israel (Nofel, 2000, 92). Besides, the US recommendation in this regard had not stated the necessity to ensure that the exchanged lands should be of the same

strategic value. This was a severe injustice for the Palestinian rights, especially in light of the fact that Palestinian lands-based settlements are highly strategic, if compared to those offered by the Israel for exchange (Al Azer, 2002, 194). The committee was headed by George Mitchel, previous member and majority head of US Senate. During the presidency period of Junior George Bush (2001-2008) US department sent investigation committee to submit its vision concerning the rebuilding of trust and resuming negotiations between both Palestinian and Israeli parties. The committee had submitted its recommendations on 30.04.2001, which included demanding Israel to stop settlement, including expansion of current ones. (Soria, 2012, 169). On 24.6.2002, President Bush provided his vision of the struggle final reconciliation as he called for negotiations to establish independent Palestinian state by the end of 2005, viable and side by side with Israel. This vision was adopted by EU, Russia, UN and USA. These parties were known as "International quartet", and the project thereof was called "Road map"; which was important as it was the first US declared commitment to establish Palestinian state; and in addition, the first article thereof stated to abide Israel by stopping settlement in Palestinian occupied lands" (Soria, Ibid, 231)

However, President Bush returned to his contradiction when he submitted written warranties to Israeli Prime Minister then, Sharon, declared in a common press conference in Washington on 14.04.2004. Bush had expressed his support for Sharon's "Disengagement Plan", aimed at separation from the Palestinians by building the isolating wall on the Palestinian occupied lands to separate Israel from such lands. In addition, the climax match between both US and Israeli attitudes happened when Bush said "it is unrealistic to ask Israel to return to 1949 Truce borders and Israel has right to maintain the major settlement blocks in West Bank, based on the facts that were formed on that land within the last decades that must be put into consideration" (International Court of Justice, 2004)

Thus, it is to be said that President Bush had exceeded bias to Israel and commenced actual termination of Palestinian rights acknowledged by the International Legitimacy. Hence, this US attitude is considered a withdrawal from the mediator role which should be subject and fair. In this regard, New York Times had described this attitude as follows: "Bush had taken everything from the Palestinians, and left them with nothing to negotiate about" (New York Times, 9/7/2004).

President Barak Obama department, ruled in 2009, is not different from its successive former US departments as it remained focusing on managing the struggle more than solving it. Obama's policy was also hesitant concerning its involvement degree. Shall it be facilitating and sponsoring party without interference or shall provide recommendations and set pressures? In this context, it was crystal clear that the referred "Road Map" was the only project promoted by US department, despite failure. President Obama's efforts to persuade Israel to freeze settlement had failed; yet his efforts were addressed to pressure on Palestinians to go back to non-preconditioned negotiations and without any reference to determine the final path of settlement process. US had only repeated "Palestinian state" motto, which had been already vanished due to Israeli settlement practices and continuous confiscation of Palestinian lands" (Saleh, 2011, 94).

Efforts of President Barak Obama knocked against Israeli Government intransigence, headed by Benjamin Netanyahu as it refused to freeze settlement completely; yet only partially and temporarily for 10 months as of the end of November 2009. Nevertheless, this temporary freezing of settlement did not include Jerusalem. However, Obama department re-accepted the Israeli attitude, and moreover US foreign Minister, Hilary Clinton, asserted her support to Netanyahu's demand to resume negotiations with the Palestinians without setting "settlement's freezing" as a precondition for settlement negotiations (<http://www.pna.net/arabic/events/klinton/plan.html>). Moreover, on 23.02.2011, US used

“VETO” on Security Council draft demanding Israel of immediate suspension of settlements, though the other 14 members supported the resolution (www.state.gov/secretary/rm/2011/1.htm). On 22.03.2012, US voted alone against a resolution issued by UN Human Right Council to send investigation delegation to Palestinian occupied lands to discover the breach of Israeli settlers to the Palestinian human rights and his self-determination right. (<http://www.pan.net/arabic/peace/9/notes.html>).

In light of this information, it is to be said that the US approach reveals the contradictory US policy and complete bias to Israel; which hinders settlement issue reconciliation process subject to the comprehensive, just and final solution of the Palestinian case. In addition, this contradiction invalids US honesty as an honest mediator in peace efforts. The US policy and approach had generally failed to convince any of the parties to return to peace negotiations which stopped in September 2010 due to Israel’s constant building and expanding of settlements, on the one side, and the Palestinians demanding to abide Israel by suspending settling operations, on the other side as a condition to resume negotiations. This was asserted by the fact that the US negligence of Israel settling practices had encouraged Israel to expand building and localizing the Jewish settlers there, as they increased in the West Bank during (1993-2010) negotiations from 180,000 to 540,000 (Saleh, 2011, 66).

5.1 CONCLUSIONS

- Israel aim at constant dominance on the Palestinian occupied lands on which the settlements are established. Thus, it does not intend to divide or evacuate the settlements, yet it shall maintain and merge them in the alleged Israeli state.
- Israel had occupied the Palestinian lands in 1967, and thus the military occupation of the Palestinian lands is not a valid reason for transferring sovereignty to Israel. Besides, it is prohibited and illegal, pursuant to International Law provisions, and as long as the occupation is illegal, the subsequent settlements on the occupied lands are illegal too. What is built on illegitimacy is illegitimate.
- The US political support and diplomatic cover to Israel as well as preventing Israel commitment with International legitimacy resolutions had encouraged Israel to continue and expand its settling policies.

5.2 RECOMMENDATIONS

- Geneva fourth agreement in 1949 is closely related to Israeli settlements issue as it mainly aims at protection nations. The fourth article thereof emphasizes on providing protection for the persons who suddenly find themselves, and in any way, under the rule of a non-national occupier. Thus, the issue renders it necessary to oblige Israel to withdraw from these lands and return the same to the Palestinians who were uprooted from their home by Israel.
- The existence of these Israeli settlements on the Palestinian occupied lands is a violation of the Palestinians’ rights; especially self-determination right through Israel’s changing the demographic and geographic nature of the occupied lands; which shall, at the end, kill the peaceful settlement of the Palestinian case.

- Being the leading sponsor of Palestinian issue peaceful settlement process, USA should take more decisive attitudes towards Israel to be abided by fulfilling International legitimacy resolutions; the most important of which are resolution No. 242 for the year 1967, and resolution No. 338 for the year 1973 since the peaceful settlement process was mainly based on these two resolutions which demand Israel of withdrawing from the Arab lands it occupied in 1967.

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